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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,590	02/04/2004	Steven Yencheng Chen	H1231	3793
29393 7590 11/13/2008 ESCHWEILER & ASSOCIATES, LLC NATIONAL CITY BANK BUILDING 629 EUCLID AVE., SUITE 1000 CLEVELAND, OH 44114				
EXAMINER ENG, DAVID Y				
ART UNIT 2455		PAPER NUMBER		
NOTIFICATION DATE 11/13/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing@eschweilerlaw.com

Office Action Summary

Application No.

10/771,590

Applicant(s)

CHEN ET AL.

Examiner

DAVID Y. ENG

Art Unit

2455

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 20-22 and 24 is/are rejected.
- 7) ☒ Claim(s) 16-19 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date 10/8/2008
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicants are again requested to update the status of related application on page 1 of the specification.

Newly submitted claim 24 has been entered. The active claims are 1-24.

Claim Rejections - 35 USC § 112, 2nd paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, function of the entries and the description of transferring in the last paragraph are not clear. The entries and the information therein as recited are not related to transferring information between the host and the network. In the last paragraph, data is associated with information in the entries (see the description of entries) and not with descriptors.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 12, 13, 20, 21, 2, 11 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Headrick (USP 5,724,358).

The "wherein clause" merely consists of non-functional descriptive material.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 14, 22 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Headrick (USP 5,724,358).

Details of the rejections have already been set forth in the last Office action. The details are incorporated herein by reference thereto.

Response

Applicants contended that Headrick does not teach the claimed features. The Examiner disagrees. Independent claims 1, 12 and 20 recite method and system for transferring data between a host and a network. The system is broadly recited to include a plurality of individual queues each of which is assigned with a priority level. Pointers (descriptors) are used to address the queues and the data entries stored in the queues in accordance with their priority level for transferring the data entries between a host and a network. Applicants did not disagree that Headrick have priority queues for

data transferring between I/O ports of two elements in accordance with priority.

Applicants provides no arguments as to why the invention as claimed is patentable distinct over Headrick and why the Rejection is in error.

Applicants state that Headrick utilizes a plurality of pointers stored in a pointer memory, wherein each pointer has a next memory field that is used to determine the next data to be transferred. This is exactly what is recited in the claims. The claims recite that descriptors (pointers) are stored in a ring (memory). As to the argument of Headrick has a next memory field in his pointer, note that each of the queues has a plurality of entries. Note further that entries are stacked next to each other in the queue. Similar to Headrick as described by Applicants, Applicants' descriptor (pointer) is needed to be incremented (next memory field) to retrieve each of the entries in the queue.

Applicants contended that their pointers are placed in separate data queue (ring). Applicants' argument is not understood. Firstly, the claims did not recite that the pointers are placed in separate queue. Secondly, as admitted by Applicants ((page16, first full paragraph), Headrick's pointers are stored in a memory also. It is not clear what the difference is and why it is patentable distinct.

Allowable Subject matter

Claims 4-10, 16-19, 23

Claims 4-10 appear to contain allowable subject matter. However, for the reasons set forth in the Section 112 Rejection, no statement can be made as to whether they are allowable.

Claims 16-19 and 23 would be given favorable consideration if claims 16 and 23 are rewritten in independent form.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DAVID Y. ENG** whose telephone number is 571-272-3984. The examiner can normally be reached on M-F from 8AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SALEH NAJJAR, can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DAVID Y. ENG/
Primary Examiner, Art Unit 2455